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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,330	04/10/2006	Patrick J. Maas	923251-103060	7603
23644 7590 03/20/2008 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786			EXAMINER BURCH, MELODY M	
			ART UNIT 3683	PAPER NUMBER
			NOTIFICATION DATE 03/20/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-ch@btlaw.com

Office Action Summary

Application No.

10/595,330

Applicant(s)

MAAS, PATRICK J.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/10/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. Examiner notes that there is a list of US Patents in paragraph [0002] of the instant invention.

Claim Objections

2. Claims 4-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-10 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by article "Motion Furniture" published by Furniture Today with a date of 9/29/03.

"Motion Furniture" discusses on pages 3-4 the seat spring assembly by Flexsteel known in the market as DualFlex which is shown in the Flexsteel Website pdf as comprising: a frame having a first and a second frame end with first and second sides connected to first and second transverse frame ends; a plurality of flat leaf springs having leaf spring first ends connected to the first frame end and leaf spring second ends connected to the second frame end; 0-1 V arch and/or 0-3 W arches with at least each leaf spring having one V or W arch adjacent the leaf spring first or second end; each leaf spring has a substantially flat center portion extending longitudinally and aligned horizontally to define a seating support surface; a cross piece, the cross piece spanning the leaf spring second ends, the leaf spring second ends being attached to the cross piece, and a plurality of coil springs, the coil springs connecting the cross piece to the second frame end to transmit loads from the leaf spring through the coil spring and second cross piece to the second frame end.

"Any invention described in a printed publication more than one year prior to the date of a patent application is prior art under Section 102(b), even if the printed publication was authored by the patent applicant." *De Graffenried v. United States*, 16 USPQ2d 1321, 1330 n.7 (Cl. Ct. 1990). "Once an inventor has decided to lift the veil of secrecy from his [or her] work, he [or she] must choose between the protection of a federal patent, or the dedication of his [or her] idea to the public at large." *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 148, 9 USPQ2d 1847, 1851 (1989). MPEP 2133.02.

It does not matter how the public came into possession of the invention. Public possession could occur by a public use, public sale, a publication, a patent or any combination of these. In addition, the prior art need not be identical to the claimed invention but will bar patentability if it is an obvious variant thereof. In re Foster, 343 F.2d 980, 145 USPQ 166.(CCPA 1966). MPEP 2133.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 5269497 to Barth and assigned to Flexsteel shows the use of a seat spring assembly including spaced V's separated by a bowed leaf spring portion, US Patent 3276765 to Slominski et al. teach the use of a seat spring assembly including spaced V's separated by a bowed leaf spring portion, US Patents 3185466 to Meyers and 4815717 to Crosby teach the use of a seat spring assembly including a V and a bowed leaf spring portion, US Patent 3098646 to Knabusch et al. teach the use of coil springs connected to a cross piece in the environment of a seat spring assembly, and article "Flexsteel Recliners Offer Steel-band Spring System" published by Furniture Today.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb

March 13, 2008

/Melody M. Burch/
Primary Examiner, Art Unit 3683